

UNITED STATES DISTRICT COURT

District of

MASSACHUSETTS

MICHAEL RODIO

V.

BILL OF COSTS

Case Number: 1:04-cv-10006-JGD

R.J. REYNOLDS TOBACCO COMPANY

Judgment having been entered in the above entitled action on 01/05/2006 against Plaintiff Michael Rodio,
the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$ <u>200.00</u>
Fees for service of summons and subpoena	<u>n/a</u>
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	<u>2,713.45</u>
Fees and disbursements for printing	<u>n/a</u>
Fees for witnesses (itemize on reverse side)	<u>n/a</u>
Fees for exemplification and copies of papers necessarily obtained for use in the case	<u>470.00</u>
Docket fees under 28 U.S.C. 1923	<u>n/a</u>
Costs as shown on Mandate of Court of Appeals	<u>n/a</u>
Compensation of court-appointed experts	<u>n/a</u>
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	<u>n/a</u>
Other costs (please itemize)	<u> </u>
TOTAL	\$ <u>3,383.45</u>

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories. See Itemization and Documentation labeled Exhibits A-C.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postage prepaid to: Michael S. Sahady, Esq.

Signature of Attorney: /s/ Mark H. Burak

Name of Attorney: Mark H. Burak

For: Defendant R.J. Reynolds Tobacco Company

Name of Claiming Party

Date: 1/18/06

Costs are taxed in the amount of and included in the judgment.

Clerk of Court

By:

Deputy Clerk

Date

WITNESS FEES (computation, cf. 28 U.S.C. 1821 for statutory fees)

[illegible]

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

“Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed.”

See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

“Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day’s notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court.”

Rule 6(e)

“Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.”

Rule 58 (In Part)

“Entry of the judgment shall not be delayed for the taxing of costs.”

Itemization for Bill of Costs

Michael Rodio v. R.J. Reynolds Tobacco Company

Case Number: 1:04-cv-10006-JGD

EXHIBIT A-FEES OF THE CLERK.		
DATE	VENDOR	AMOUNT
1/5/04	Clerk of the Court (notice of removal)	150.00
1/26/04	United States District Court (motion to appear <i>pro hac vice</i> -Randy Loftis, Jr.)	50.00
TOTAL EXHIBIT A		\$200.00
EXHIBIT B-COURT REPORTER INVOICES (28 U.S.C. §1920(2))		
DATE	VENDOR	AMOUNT
9/22/04	Kathleen A. DeTerra (unemployment hearing transcript)	258.25
9/27/04	Kathleen A. DeTerra (Rodio, Fasciani and Deschenes deposition transcripts)	985.50
9/28/04	Kathleen A. DeTerra (Michael Rodio deposition transcript)	863.70
7/14/05	Kathleen A. DeTerra (Richard Kane and Michael Rodio (part 2) deposition transcripts)	606.00
TOTAL EXHIBIT B		\$2,713.45
EXHIBIT C-COPIES OF PAPERS (28 U.S.C. §1920(4))		
DATE	VENDOR	AMOUNT
1/14/04	Worcester Superior Court (certified copy of state court record)	80.00
4/26/04	Sahady Associates, P.C. (copies of discovery documents from plaintiff)	375.00
5/19/04	Commonwealth of Massachusetts-Unemployment (DET hearing tapes)	15.00
TOTAL EXHIBIT C		\$470.00

5515

CONSTANGY, BROOKS AND SMITH, LLC
ATTORNEYS AT LAW
PH. (336) 721-1001
100 N. CHERRY ST.
WINSTON-SALEM, NC 27101

BRANCH BANKING
AND TRUST COMPANY
WINSTON-SALEM, NC 27103
66-112/531

12.30.03

PAY TO THE
ORDER OFClerk of Court
One hundred fifty

+ no/100

\$150.00

DOLLARS

MEMO

11

4378711

AUTHORIZED SIGNATURE

CONSTANGY, BROOKS AND SMITH, LLC/ATTORNEYS AT LAW

5515

CONSTANGY, BROOKS AND SMITH, LLC/ATTORNEYS AT LAW

5515

EXHIBIT

A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MICHAEL RODIO,

Plaintiff,

v.

R.J. REYNOLDS TOBACCO COMPANY,

Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action No.

RECEIPT # 52876
AMOUNT \$ 150.00
SUMMONS ISSUED
LOCAL RULE 4.1
SWAIVER FORM
MCF ISSUED
DATE 1-5-04
TONY ANASTAS
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NOTICE OF REMOVAL

MAGISTRATE JUDGE *Deen*

R. J. Reynolds Tobacco Company ("RJR"), defendant named in the above-styled action, hereby files its Notice of Removal which shall effect a removal of this action to the United States District Court for the District of Massachusetts:

1. On or about November 19, 2003, a civil action was filed in the Superior Court of Massachusetts, County of Worcester, entitled Michael Rodio v. R. J. Reynolds Tobacco Company, Civil Docket No. 03-2337-A. On or about December 17, 2003, counsel for RJR accepted service of process and a copy of the complaint in the aforementioned action. Copies of the Summons, Complaint, Acceptance of Service and Civil Action cover sheet are being filed herewith as Exhibit A.

2. The above-captioned action is one within the original jurisdiction of this Court pursuant to 28 U.S.C. § 1332, in that complete diversity exists between Plaintiff and the Defendants.

CITIZENS BANK
MASSACHUSETTS

MORSE BARNES-BROWN & PENDLETON PC

06-93

RESERVOIR PLACE
1601 TRAPELO RD., 2ND FL.
WALTHAM, MA 02451
PH. 781-622-5930 FAX 781-622-5933

13190

5-7017/2110
781

01/28/04

PAY TO THE
ORDER OF

United States District Court

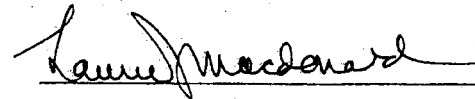
\$ 50.00

Fifty and 00/100 Only-----

DOLLARS

MEMO

MHB/RJR - Pro Hac Vice Filing Fee



Make Checks Payable To:
 Kathleen A. DeTerra
 1 Bow Drive
 Acushnet MA 02743 508 - 763-2542

Office Use: K4-8-27-C

Date: 09/22/04

Bill To:
 Constangy, Brooks & Smith, LLC
 W.R. Loftis, Jr., Esq.
 100 N. Cherry Street, Suite 30
 Winston-Salem, NC 027101

Case Name:
 Rodio
 vs
 R.J. Reynolds

INVOICE # K4-8-27-C	TERMS 30 days	CASE NUMBER	DEPOSITION OF: Unemployment Hearing	TAX ID# 022-50-1025
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Quantity	Description	Unit Price	Amount
83	COPY	2.75	228.25
1	MINITRANSRIPT (Transcription of cassette tapes) DATE OF HEARING: 1-29-03	30.00	30.00
<p><i>*****Past due amounts subject to a 1 1/2% per month finance charge.</i></p>			
Amount Paid 0.00		Amount Due 258.25	
TOTAL			\$258.25

EXHIBIT

B

Make Checks Payable To:
 Kathleen A. DeTerra
 1 Bow Drive
 Acushnet MA 02743 508 - 763-2542

Office Use: BKS4-9-2-C

Date: 09/27/04

Bill To:
 Constangy, Brooks & Smith, LLC
 W.R. Loftis, Jr., Esq.
 100 N. Cherry Street, Suite 30
 Winston-Salem, NC 027101

Case Name:
 Rodio
 v
 R.J. Reynolds

INVOICE # BKS4-9-2-C	TERMS 30 DAYS	CASE NUMBER 04-10006-WGY	DEPOSITION OF: Rodio, Fasciani & Deschenes	TAX ID# 022-50-1025
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Quantity	Description	Unit Price	Amount
43	COPY	2.75	118.25
244	COPY	2.75	671.00
35	COPY	2.75	96.25
3	MINITRANSRIPT	30.00	90.00
1	DELIVERY	10.00	10.00

DATE TAKEN: 9-2-04

*******Past due amounts subject to a 1 1/2% per month
 finance charge.**

Amount Paid 0.00

Amount Due 985.50

TOTAL

\$985.50

Make Checks Payable To:

Kathleen A. DeTerra
1 Bow Drive
Acushnet MA 02743 508 - 763-2542

Office Use: S4-8-31-0

Date: 09/28/04

Bill To:

Constangy, Brooks & Smith, LLC
W.R. Loftis, Jr., Esq.
100 N. Cherry Street, Suite 30
Winston-Salem, NC 027101

Case Name:

Rodio
vs
R.J. Reynolds Tobacco

INVOICE #	TERMS	CASE NUMBER	DEPOSITION OF:	TAX ID#
K4-8-31-0	30 DAYS	04-10006-WGY	Michael Rodio	022-50-1025

Quantity	Description	Unit Price	Amount
243	ORIGINAL	3.40	826.20
1	MINITRANSRIPT	30.00	30.00
1	DELIVERY	7.50	7.50
DATE TAKEN: 8-31-04			
*****Past due amounts subject to a 1 1/2% per month finance charge.			
Amount Paid 0.00		Amount Due 863.70	
TOTAL			\$863.70

Make Checks Payable To:
 Kathleen A. DeTerra
 1 Bow Drive
 Acushnet MA 02743 508 - 763-2542

Office Use: LM5-6-14-C

Date: 07/14/05

Bill To:
 Constangy, Brooks & Smith, LLC
 W.R. Loftis, Jr., Esq.
 100 N. Cherry Street, Suite 30
 Winston-Salem, NC 027101

Case Name: **108347**
 Michael Rodio
 vs
 R.J. Reynolds Tobacco Company

INVOICE # LM5-6-14-C	TERMS 30 days	CASE NUMBER	DEPOSITION OF: Richard Kane & Michael Rodio 2	TAX ID# 022-50-1025
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Quantity	Description	Unit Price	Amount
79	ORIGINAL	3.50	276.50
80	COPY	2.75	220.00
1	EXPEDITE FEE for deposition of Richard Kane 40%	88.00	88.00
1	DELIVERY	7.50	7.50
1	OVERNIGHT DELIVERY	14.00	14.00

*****Past due amounts subject to a 1 1/2% per month
 finance charge.

RECEIVED
 JUL 21 2006
 ATLANTA ACC

Amount Paid 0.00

Amount Due 606.00

TOTAL



\$606.00

FOR DEPOSIT ONLY 53-13
 FRANCIS A. FORD
 CLERK of the COURTS
 SPECIAL ACCOUNT

FLEETING HARBOR, MA 01901

CITIZENS 0385/05/131/091
 RIVERSIDE RI

MORSE BARNES-BROWN & PENDLETON PC

RESERVOIR PLACE
 1601 TRAPELO RD., 2ND FL.
 WALTHAM, MA 02451
 PH. 781-622-5930 FAX 781-622-5933

06-93

CITIZENS BANK
 MASSACHUSETTS

13122

5-7017/2110
 781

1/14/2004

PAY TO THE ORDER OF Worcester Superior Court

**80.00

\$

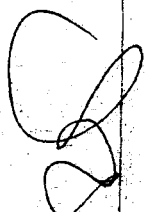
Eighty and 00/100*****

DOLLARS

Worcester Superior Court

MEMO MHB/RJR - Obtain Document Copies

03/23/03



EXHIBIT

C

SAHADY ASSOCIATES, P.C.

C o u n s e l l o r s a t L a w

Michael S. Sahady
John M. Sahady
Paul M. Sahady

399 North Main Street
Fall River, MA 02720

Tel. 508-674-9444 Fax 508-674-8430

TWO SETS OF RESPONSES TO REQUESTS FOR PRODUCTION OF
DOCUMENTS: ONE TO ATTORNEY LOFTIS and ONE TO ATTORNEY BURAK

AMOUNT DUE:.....\$375.00

SAHADY ASSOCIATES, P.C.

C o u n s e l l o r s a t L a w

Michael S. Sahady
John M. Sahady
Paul M. Sahady

399 North Main Street
Fall River, MA 02720
Tel. 508-674-9444 Fax 508-674-8430

April 26, 2004

W.R. Loftis, Jr., Esquire
CONSTANGY, BROOKS & SMITH, LLC
100 N. Cherry Street, Suite 300
Winston-Salem, North Carolina 27101

Re: Michael Rodio v. R.J. Reynolds Tobacco Company
No: 04 CV 10006 WGY

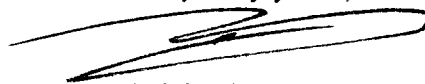
Dear Attorney Loftis:

I am herewith enclosing Plaintiff's Answers to Defendant's Interrogatories and Plaintiff's Response to Defendant's Request for Production of Documents. In Plaintiff's Response to Defendant's Request for Production you will find all the documents you requested as per your letter of March 17, 2004 with the exception of "documents showing current merchandising and proposed merchandising/RDA scenario. Although we had this document, we are now unable to find it. We will provide you with a copy if found.

I realize that you prefer to depose the plaintiff sometime in May. I will, however, be forwarding to you Plaintiff's Interrogatories to the defendant together with a Request for Production of Documents. May I suggest that you stay your deposition of the plaintiff until I have received your responses and after which we can agree on a date when the plaintiff and defendant's agents and servants may be deposed.

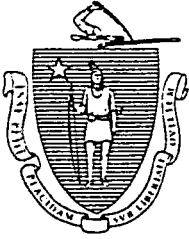
Thank you for your kind cooperation.

Very truly yours,



Michael S. Sahady

MSS/app
Enclosures
cc: Mark H. Burak, Esquire



THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF UNEMPLOYMENT ASSISTANCE

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LT. GOVERNOR

JOHN A. KING
COMMISSIONER

May 19, 2004

MS. ELIZABETH WILLS-HULL
CONSTANGY, BROOKS & SMITH, LLC
100 N. Cherry Street, Suite 300
Winston-Salem, NC 27101

RE: Request for DET Hearings Tapes (2)
CLAIMANT: MICHAEL RODIO

DOCKET NUMBER: 343890
SOCIAL SECURITY NUMBER:

EMPLOYER: R.J. Reynolds Tobacco Co.

EMPLOYER NO.: 00-597190

Dear Mr. Twohig :

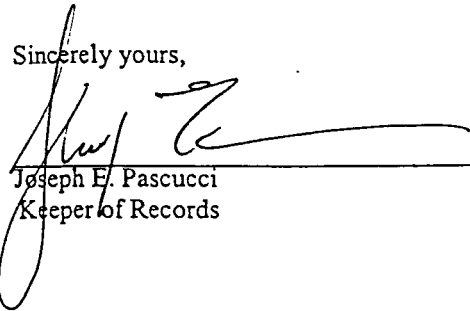
Per your written request I have enclosed a copy of one set of two tape regarding the above-mentioned hearing. Please remit a check for \$15.00 (\$7.50 per tape) made payable to the Commonwealth of Massachusetts.

Even though these tapes have been released to you, it is my duty as the Keeper of the Records for DUA to inform you these recorded hearing tapes are protected under M.G.L., c. 151A, s. 46. In summation the statute informs you that information contained on these tapes are for the exclusive use by the Division of Unemployment Assistance. This information is confidential and absolutely privileged and is not admissible in any action or proceeding except as specified in Massachusetts General Laws, Chapter 151A, S.46. By statute, whoever discloses such information contrary to this law shall be punished by a fine and/or imprisonment

Please contact me if you have any questions regarding this matter. My telephone number is (617) 626-6765.

Encl.:

Sincerely yours,


Joseph E. Pascucci
Keeper of Records